

UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF THE UNITED STATES TRUSTEE
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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

IN RE:

WILLIAM ARTHUR WHITTLE

DEBTOR

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§
§
§
§

CASE NUMBER:

08-20069

CHAPTER 11

MOTION OF THE UNITED STATES TRUSTEE TO DISMISS CASE

LOCAL RULE 9013(b) NOTICE:

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

TO THE HONORABLE RICHARD S. SCHMIDT

UNITED STATES BANKRUPTCY JUDGE:

COMES NOW, JUDY A. ROBBINS, UNITED STATES TRUSTEE, ("UST"), through the undersigned counsel, who respectfully moves for an Order dismissing this case pursuant to 11 U.S.C. § 1112(b)(1). In support of her motion, the UST states the following:

1. William Arthur Whittle ("Debtor") filed a voluntary petition under chapter 13 on February 6, 2008. The Debtor voluntarily converted his case to chapter 11 on August 13, 2010. The Debtor is a bankruptcy attorney.
2. The Debtor's major creditor is the Internal Revenue Service ("IRS"). The Debtor incurred approximately \$90,000 tax liability following his purchase of the law firm of a deceased bankruptcy attorney, Jan Shephard. The Debtor filed chapter 13 to pay out the tax liability over the life of his chapter 13 plan.
3. The Debtor was unable to confirm a chapter 13 plan over the IRS' objection. The chapter 13 trustee filed a motion to dismiss the Debtor's case (Docket # 197). The chapter 13 trustee's motion precipitated the Debtor's decision to try to work things out with the IRS in chapter 11.
4. The Debtor has been in bankruptcy for three years, the last year in Chapter 11. The Debtor has never filed a disclosure statement and plan of reorganization. There have been numerous court hearings on the IRS' motion to dismiss this case. It appeared the IRS and the Debtor finally reached a settlement agreement (Docket Entry #248). Currently, the Debtor is objecting to an amended claim filed by the IRS.
5. The UST is filing this Motion to Dismiss to close the Debtor's case and remove it from the Court's active open case roll.
6. The Debtor is involved in a two party dispute with the IRS. The Debtor's issues can be resolved outside of bankruptcy. No adversaries are open and pending.
7. The Court has a duty to dismiss, or convert to chapter 7, a case under chapter 11 if the movant, including the UST, establishes cause for dismissal. 11 U.S.C. § 1112 (b)(1). The Debtor's failure to show a reasonable likelihood of rehabilitation is cause for the dismissal of this case pursuant to U.S.C. § 1112 (b)(4)(A).

WHEREFORE, the UST prays that this Court enters an order dismissing this case, and for any further relief as may be equitable and just.

Dated: July 13, 2011

Respectfully submitted,

JUDY A. ROBBINS
UNITED STATES TRUSTEE

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